

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.298/Coch/2024  
Assessment Year - 2020-2021

Divya Thottathil Joseph VII/504, Thottathil House Nadakkavu P.O. Udayamperoor Ernakulam – 682 307. PAN AGZPJ9386P	v.	The Income Tax Officer Non Corp Ward 1(1) Kochi.
(Appellant)		(Respondent)

Appellant by : Sri.K.K.John  
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 23.08.2024	Date of Pronouncement : 07.11. 2024
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**ORDER**

**PER BENCH :**

This assessee's appeal ITA No.298/Coch/2024 for assessment year 2020-2021 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1060906359(1) dated 14.02.2024 in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

Heard both the parties. Case file perused.

2. Both the learned representatives at the outset invite our attention to the CIT(A)'s lower appellate discussion upholding assessment findings.

3. We find during the course of hearing that the Assessing Officer had added sec.68 unexplained cash credits of Rs.22,57,100/- in assessee's hands which stand upheld in the CIT(A)-NFAC's lower appellate discussion as follows :

5. **Ground No. 1:-** *The Appellant has sold cardamom to Anns Spices during the previous year relevant to Assessment Year 2020-21 and she has received bills issued by them as evidence. Copies of bills attached and marked EVIDENCE-1 on 7 bills.*

**Ground No. 2:-** *The Appellant has received major part of the sales proceeds from Anns Spices by way of bank transfer.Rs.2200000- Twenty Two Lakhs received. Evidence attached is i. Ledger copy of Anns Spices marked EVIDENCE 2 on a single sheet and ii. bank statement of the Appellant marked EVIDENCE 3 on a single sheet.*

**Ground No. 3:-** *The Appellant received a confirmation letter dated 11.10.2022 from Anns Spices stating that they have purchased Rs.2257100 Worth cardamom from the Appellant during the previous year relevant to the AY 2020-21.Copy attached evidence marked EVIDENCE 4 on a single sheet.*

In these grounds the appellant has challenged the addition of Rs. 22,57,100/- made by the Assessing Officer u/s 68 of the Act. The appellant has mentioned about evidence 1,2,3 & 4. These evidences are bills received from Anns Spices, copy of ledger of Anns Spices, their bank statements and confirmation letter dated

11.10.2022. None of these evidences were produced before the Assessing Officer and in column 12 of form 35 regarding;

"Whether any documentary evidence other than the evidence produced during the course of proceedings before the Income -tax Authority has been filed in terms of Rule 46A." the appellant has replied 'NO'. Further, no application for admitting any additional evidence has been submitted. In the reply dated 12.02.2024, the appellant has submitted that:-

*"The merchant named Anns Spices did not issue purchase bills - for sales affected by appellant- and so corresponding sales was not shown in the accounts as agricultural income but accounted as advance received from the party. This was later on rectified by accounting the advance received as agricultural income in the accounts based on the bills issued by the merchant. The omission of sale in original return did not bring any adverse effect in tax collection as it is an exempt income i.e. agricultural income. It is true that there was an omission of agricultural income in the original return. It is also true that income omitted in the original has been added to income in the revised return. But as long as the basic characteristics of the agricultural income remain unchanged and the total income is below the maximum not liable to tax in both the returns, there will not be any loss to the Department owing to this change. As per Assessment order it is noticed the additional income -agricultural in nature- added in the Revised return is treated as unexplained income under section 68 and hence assessed as income from other source. This action of the learned assessing officer is not justifiable. This additional income is purely agricultural in nature as per bills issued by the merchant -Anns Spices- whose confirmation letter along with purchase bills have been attached earlier. Attached Assessment Order marked Annexure I four sheets. Also attached is Demand Notice marked Annexure II. Based on these explanation and submission as above and further submissions that may be urged in future the Honorable CIT -appeals- may kindly give relief to the appellant by treating the additions as agricultural income of the Appellant and by deleting equivalent amount from Income from other sources."*

6. I have gone through the reply of the appellant and I find that in original return the agriculture income was shown at Rs.81,72,498/- only. In the computation filed during the assessment proceedings additional claim of agriculture income of Rs.22,57,100/- was made but no revise return was filed. In the reply the appellant has mentioned about revised return but no such return was found filed by the appellant. Further, no reply to the notice u/s 133(6) of the Act issued by the Assessing Officer was given by M/s. Anns Spices to whom alleged sale of Rs.22,57,100/- was made. Further, I also found that the agriculture income in A.Y. 2018-19 was Rs.17,90,150/- and that in AY 2019-20 was Rs.16,56,150/- and the agriculture income shown for AY 2020-21 was already Rs.81,72,495/- which is

approximately five times the earlier agriculture income. Therefore, further increasing the agriculture income and that too without revising the return does not appear to be reasonable and justified. In view of these facts I hold that the appellant has failed to explain the source of Rs.22,57,100/- and therefore, the Assessing Officer has rightly added to the total income of the appellant u/s 68 of the Act. Therefore, the ground of appeal is not tenable and is dismissed.

4. Learned counsel has filed assessee's paper book running into 66 pages in support of his "price fluctuations" plea in spices market.

5. Learned DR fails to dispute that all of the said evidence(s) has nowhere been specifically refuted as per sec.250(6) of the Act.

6. Faced with this situation, we deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the CIT(A)-NFAC for its afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to plead and prove all the relevant facts in the consequential proceedings. Ordered accordingly.

7. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 7<sup>th</sup> day of November, 2024.

Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER

Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER

Cochin ; Dated : 7<sup>th</sup> November, 2024.

VBP/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT Concerned.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin